

**UNITED STATES COURT OF APPEALS
FOR THE EIGHTH CIRCUIT**

No: 22-2706

United States of America

Plaintiff - Appellee

v.

John Edward Miller

Defendant - Appellant

Appeal from U.S. District Court for the Northern District of Iowa - Cedar Rapids
(1:20-cr-00107-CJW-1)

JUDGMENT

Before LOKEN, BENTON, and KOBES, Circuit Judges.

The government's motion to dismiss the case is granted.

November 09, 2022

Order Entered at the Direction of the Court:
Clerk, U.S. Court of Appeals, Eighth Circuit.

/s/ Michael E. Gans

Adopted April 15, 2015
Effective August 1, 2015

Revision of Part V of the Eighth Circuit Plan to Implement the Criminal Justice Act of 1964.

V. Duty of Counsel as to Panel Rehearing, Rehearing En Banc, and Certiorari

Where the decision of the court of appeals is adverse to the defendant in whole or in part, the duty of counsel on appeal extends to (1) advising the defendant of the right to file a petition for panel rehearing and a petition for rehearing en banc in the court of appeals and a petition for writ of certiorari in the Supreme Court of the United States, and (2) informing the defendant of counsel's opinion as to the merit and likelihood of the success of those petitions. If the defendant requests that counsel file any of those petitions, counsel must file the petition if counsel determines that there are reasonable grounds to believe that the petition would satisfy the standards of Federal Rule of Appellate Procedure 40, Federal Rule of Appellate Procedure 35(a) or Supreme Court Rule 10, as applicable. *See Austin v. United States*, 513 U.S. 5 (1994) (*per curiam*); 8th Cir. R. 35A.

If counsel declines to file a petition for panel rehearing or rehearing en banc requested by the defendant based upon counsel's determination that there are not reasonable grounds to do so, counsel must so inform the court and must file a written motion to withdraw. The motion to withdraw must be filed on or before the due date for a petition for rehearing, must certify that counsel has advised the defendant of the procedures for filing *pro se* a timely petition for rehearing, and must request an extension of time of 28 days within which to file *pro se* a petition for rehearing. The motion also must certify that counsel has advised the defendant of the procedures for filing *pro se* a timely petition for writ of certiorari.

If counsel declines to file a petition for writ of certiorari requested by the defendant based on counsel's determination that there are not reasonable grounds to do so, counsel must so inform the court and must file a written motion to withdraw. The motion must certify that counsel has advised the defendant of the procedures for filing *pro se* a timely petition for writ of certiorari.

A motion to withdraw must be accompanied by counsel's certification that a copy of the motion was furnished to the defendant and to the United States.

Where counsel is granted leave to withdraw pursuant to the procedures of *Anders v. California*, 386 U.S. 738 (1967), and *Penson v. Ohio*, 488 U.S. 75 (1988), counsel's duty of representation is completed, and the clerk's letter transmitting the decision of the court will notify the defendant of the procedures for filing *pro se* a timely petition for panel rehearing, a timely petition for rehearing en banc, and a timely petition for writ of certiorari.

United States Court of Appeals
For The Eighth Circuit
Thomas F. Eagleton U.S. Courthouse
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Michael E. Gans
Clerk of Court

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November 09, 2022

Mr. Bradley Ryan Hansen
FEDERAL PUBLIC DEFENDER'S OFFICE
Southern District of Iowa
340 Capital Square
400 Locust Street
Des Moines, IA 50309-0000

RE: 22-2706 United States v. John Miller

Dear Counsel:

Enclosed is a copy of an order entered today in the above case. Mandate is being issued and sent today to the Clerk of the United States District Court.

Michael E. Gans
Clerk of Court

NDG

Enclosure(s)

cc: Mr. Clerk, U.S. District Court, Northern Iowa
Mr. John Edward Miller
Mr. William Reiser Ripley
Ms. Melisa K. Zaehring

District Court/Agency Case Number(s): 1:20-cr-00107-CJW-1